

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MARCUS D. MAYS, #218101,)	
Plaintiff,)	
)	No. 2:17-cv-167
-v-)	
)	Honorable Paul L. Maloney
UNKNOWN PYNNONEN, et al.,)	
Defendants.)	
)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff Marcus May, a prisoner under the control of the Michigan Department of Corrections, alleges various claims against MDOC employees. Defendants filed a motion for partial summary judgment alleging Plaintiff's failure to exhaust administrative grievances. (ECF No. 29.) The magistrate judge issued a report recommending the Court grant the motion. (ECF No. 59.) Plaintiff filed objections. (ECF No. 60.)

After being served with a report and recommendation (R&R) issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court judge reviews de novo the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Only those objections that are specific are entitled to a de novo review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam).

The magistrate judge recommends the following: (1) dismissing Defendants Grueb and Wealton without prejudice, (2) dismissing without prejudice Plaintiff's retaliation claim

against all named defendants except for Defendant Corrigan, and (3) dismissing Plaintiff food poisoning claim without prejudice.

In his objection, Plaintiff asserts generally that he has attempted to exhaust his grievances and refers to multiple exhibits attached to his objection. Defendants filed a response insisting that they have no record that they received any of the attached exhibits.

Plaintiff's objection is overruled. When presented with a motion, the opposing party has an obligation to answer it. Plaintiff did not submit the documents attached to his objection as part of his response to the initial motion. Objections are not opportunities to present evidence that could have and should have been presented as part of the initial motion or response. The Court also finds telling that none of the exhibits submitted as part of Plaintiff's objection bear any markings suggesting that they were received by MDOC as part of the grievance process.

For these reasons, the Report and Recommendation (ECF No. 59) is **ADOPTED** as the Opinion of this Court. Defendants' motion for partial summary judgment (ECF No. 29) is **GRANTED** and (1) Defendants Grueb and Wealton are dismissed without prejudice; (2) Plaintiff's retaliation claims against all defendants except Defendant Corrigan is dismissed without prejudice; and (3) Plaintiff's food poisoning claim is dismissed without prejudice.

IT IS SO ORDERED.

Date: February 26, 2019

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge